

will be rejected. If the petitioner believes that the contested amount of that petitioner's claim will be less than \$10,000, petitioner shall so state in the petition to participate and should not include payment of the \$150 filing fee. If it becomes apparent during the course of the proceedings that the contested amount of the claim is more than \$10,000, the Board will require payment of the filing fee at such time.

(c) *Acceptance and rejection of petitions to participate.* A petition to participate will be deemed to have been allowed by the Copyright Royalty Board unless the Board has determined that the petitioner lacks a significant interest in the proceeding or that the petition is otherwise invalid.

(d) *Late petitions to participate.* The Copyright Royalty Board may, for substantial good cause shown, and if there is no prejudice to the participants that have already filed petitions, accept late petitions to participate at any time up to the date that is 90 days before the date on which participants in the proceeding are to file their written direct statements. However, petitioners whose petitions are filed more than 30 days after publication of notice of commencement of a proceeding are not eligible to object to a settlement reached during the voluntary negotiation period.

#### **§ 351.2 Voluntary negotiation period; settlement.**

(a) *Commencement; duration.* Within thirty-five business days from the date a proceeding is initiated by notice in the FEDERAL REGISTER pursuant to § 351.1(a), the Copyright Royalty Board will announce the beginning of a voluntary negotiation period and will make a list of the participants available to the participants in the particular proceeding. The voluntary negotiation period shall last three months, after which the parties shall notify the Board in writing as to whether a settlement has been reached.

(b) *Settlement—(1) Distribution proceedings.* To the extent that a settlement or partial settlement has been reached in a distribution proceeding, that agreement will provide the basis for a full or partial distribution.

(2) *Royalty rate proceedings.* If, in a proceeding to determine statutory terms and rates, the participating parties report that a settlement has been reached by some or all of the parties, the Copyright Royalty Board will publish the settlement in the FEDERAL REGISTER for notice and comment from those bound by the terms, rates, or other determination set by the agreement. The Board may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement if the Board concludes that the agreement does not provide a reasonable basis for setting statutory terms or rates.

#### **§ 351.3 Controversy and further proceedings.**

(a) *Declaration of controversy.* If a settlement has not been reached within the voluntary negotiation period, the Copyright Royalty Board will issue an order declaring that further proceedings are necessary. The procedures set forth at §§ 351.4, *et seq.*, for formal hearings will apply, unless the abbreviated procedures set forth in paragraphs (b) and (c) of this section are invoked by the Copyright Royalty Board.

(b) *Small claims in distribution proceedings—(1) General.* If, in a distribution proceeding, the contested amount of a claim is \$10,000 or less, the Copyright Royalty Board shall decide the controversy on the basis of the filing of the written direct statement by each participant (or participant group filing a joint petition), the response by any opposing participant, and one optional reply by a participant who has filed a written direct statement.

(2) *Bad faith inflation of claim.* If the Copyright Royalty Board determines that a participant asserts in bad faith an amount in controversy in excess of \$10,000 for the purpose of avoiding a determination under the procedure set forth in paragraph (b)(1) of this section, the Copyright Royalty Board shall impose a fine on that participant in an amount not to exceed the difference between the actual amount distributed and the amount asserted by the participant.

(c) *Paper proceedings—(1) Where used.* The procedure under this paragraph (c) will be applied in cases in which there